



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 5, 1998

Ms. Eugenia A. Cano
City Attorney
City of Alvin
216 W. Sealy
Alvin, Texas 77511

OR98-0350

Dear Ms. Cano:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112394.

The City of Alvin (the "city") received a request for all incident reports, health inspection results or any other documentation regarding any investigation conducted at the Alvin Convalescent Center performed during the last five years. You have submitted copies of theft reports and abuse/neglect reports for our review. You state that you are willing to provide all of the responsive documents to the requestor. You are concerned, however, that some of requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the documents at issue.

Initially, we note that you have submitted a copy of a Texas driver's license for our review. The Seventy-fifth Legislature added section 552.130 to the Open Records Act which governs the release and use of information obtained from motor vehicle records. Section 552.130 provides in relevant part as follows:

(a) Information is excepted from the requirement of Section 552.021
if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued
by an agency of this state[.]

Therefore, you must withhold the driver's license pursuant to section 552.130. The license has been marked for your convenience.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 242.125 of the Health & Safety Code provides that a report of abuse or neglect shall be made to the Texas Department of Health or a local or state law enforcement agency. "A report, record, or working paper used or developed in an investigation made under this subchapter and the name of any person making a report under this subchapter are confidential and may be disclosed only for purposes consistent with the rules adopted by the [Texas Board of Health] or the designated agency." *Id* § 242.127. After a review of the responsive information and your arguments, we conclude that most of the incident reports in exhibit C were developed in connection with an investigation under section 242.125 and must only be released pursuant to the statute. We have marked the information for your convenience.

Section 552.101 also incorporates the common-law right of privacy. For information to be protected by common-law privacy it must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The *Industrial Foundation* court held that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. 540 S.W.2d at 685. We have marked the portions of the remaining submitted documents that must be withheld from disclosure under section 552.101 in conjunction with the common-law right of privacy. The remaining information must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/gle

Ref.: ID# 112394

Enclosures: Marked documents

cc: Ms. Alma J. Aguirre
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(w/o enclosures)